

§ 1.43

legal representative upon proper intervention.

(35 U.S.C. 6, Pub. L. 97-247)

[48 FR 2709, Jan. 20, 1983]

§ 1.43 When the inventor is insane or legally incapacitated.

In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent.

(35 U.S.C. 6, Pub. L. 97-247)

[48 FR 2709, Jan. 20, 1983]

§ 1.44 Proof of authority.

In the cases mentioned in §§ 1.42 and 1.43, proof of the power or authority of the legal representative must be recorded in the Patent and Trademark Office or filed in the application before the grant of a patent.

(35 U.S.C. 6, 111, 116, 117, 118)

§ 1.45 Joint inventors.

(a) Joint inventors must apply for a patent jointly and each must make the required oath or declaration: neither of them alone, nor less than the entire number, can apply for a patent for an invention invented by them jointly, except as provided in § 1.47.

(b) Inventors may apply for a patent jointly even though

(1) They did not physically work together or at the same time,

(2) Each inventor did not make the same type or amount of contribution, or

(3) Each inventor did not make a contribution to the subject matter of every claim of the application.

(c) If multiple inventors are named in a nonprovisional application, each named inventor must have made a contribution, individually or jointly, to the subject matter of at least one claim of the application and the application will be considered to be a joint application under 35 U.S.C. 116. If multiple inventors are named in a provisional application, each named inventor must have made a contribution, individually or jointly, to the subject matter disclosed in the provisional application and the provisional applica-

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tion will be considered to be a joint application under 35 U.S.C. 116.

(35 U.S.C. 6, Pub. L. 97-247)

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§ 1.46 Assigned inventions and patents.

In case the whole or a part interest in the invention or in the patent to be issued is assigned, the application must still be made or authorized to be made, and an oath or declaration signed, by the inventor or one of the persons mentioned in § 1.42, 1.43, or 1.47. However, the patent may be issued to the assignee or jointly to the inventor and the assignee as provided in § 3.81.

(35 U.S.C. 6, Pub. L. 97-247)

[57 FR 29642, July 6, 1992]

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(i) and the last known address of the nonsigning inventor. The Patent and Trademark Office shall, except in a continued prosecution application under § 1.53(d), forward notice of the filing of the application to the nonsigning inventor at said address and publish notice of the filing of the application in the *Official Gazette*. The nonsigning inventor may subsequently join in the application on filing an oath or declaration complying with § 1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of